

10 SENTENCING HEARING PROCEEDINGS
11 BEFORE THE HONORABLE RONALD A. WHITE
12 UNITED STATES DISTRICT JUDGE
13 MAY 10, 2022

16 APPEARANCES:

17 FOR THE PLAINTIFF: MR. JARROD LEAMAN, U.S. Attorney (OKED)
18 520 Denison Avenue, Muskogee, Oklahoma 74401

20 FOR THE DEFENDANT: MR. DAVID B. AUTRY, Attorney at Law

21 | 1021 NW 16th Street, Oklahoma City, Oklahoma 73106

23 COURT REPORTER: KARI A McWHORTER CSR-RPR

24 UNITED STATES COURT REPORTER

COURT IN SESSION

(1:16 p.m.)

3 THE COURT: Okay. We are on the record in CR-20-78,
4 United States of America versus Patrick Dwayne Murphy.

5 Mr. Jarrod Leaman is present for the government. Mr. David
6 Autry is present for the Defendant, and the Defendant is present in
7 the courtroom.

8 This matter comes on today for sentencing. Before we start
9 on the procedural part, Mr. Leaman, are there victims present?
10 Have they been notified?

11 MR. LEAMAN: Yes, to both, Your Honor.

12 THE COURT: And I understand they don't want to speak
13 themselves. but you have statements to read on their behalf?

14 MR. LEAMAN: That's right, Your Honor.

15 THE COURT: We will do that as we go. Okay?

16 MR. LEAMAN: Yes, sir.

17 THE COURT: When I ask you if there is anything further
18 from the government in aggravation or mitigation, that's your cue

19 MR. LEAMAN: Yes, sir.

20 THE COURT: Okay, all right. As I mentioned, this matter
21 comes on today for sentencing. Has the government received a copy
22 of the Presentence Report?

23 MR. LEAMAN: Yes, Your Honor, we have, and no
24 objections.

25 THE COURT: Thank you, Mr. Autry, you've reviewed

1 the report with your client?

2 MR. AUTRY: Yes, Your Honor, we have, and we did file
3 various objections and comments.

4 THE COURT: And I am ready for you to address those
5 at this time.

6 MR. AUTRY: Thank you, Your Honor.

7 Your Honor, although not strictly relevant to the guideline range
8 or the statutory punishment, we did object on a factual basis to
9 Paragraphs 12 and 15. It relates to statements from Patsy Jacobs.

10 Paragraph 12 indicates that two days before the homicide of
11 George Jacobs, Mr. Murphy supposedly threatened to kill George
12 Jacobs, and his children. That was on the 26th of August 1999.

13 The homicide was committed on August 28th or August 29th, 1999.

14 And also, there was testimony and statements made by Ms. Jacobs
15 to the authorities that after George Jacobs was killed, Mr. Murphy
16 supposedly told her that he had cut off Mr. Jacobs' genitals -- not in
17 that language of course -- but that he had done that and if the
18 boys have done the job right, he is dead, referring to Kevin King,
19 I guess, and the other gentleman.

20 We object to that because the Presentence Report basically
21 relies on the investigative materials to make those statements in
22 the report, overlooking that, of course, there was a trial in this case.
23 Ms. Jacobs testified -- to my recollection, she did testify that
24 Mr. Murphy made those statements. Mr. Murphy testified and
25 denied making those statements.

1 In Count 1, the jury found Mr. Murphy not guilty of First Degree
2 Premeditated Murder and instead convicted him of Second Degree
3 Murder.

4 Ms. Patsy Jacobs' statements reflect, if they were believed,
5 a premeditated design to effect death and an intentional,
6 premeditated killing. The jury rejected that as a verdict in this case
7 as to Count 1. So we think that our objection to that is good based
8 on the trial testimony and based on the verdict rendered by the
9 jury.

10 As to Paragraphs 26, 27, 32, and 35, we agree with the
11 Probation Office that the three counts of conviction in this case,
12 the lesser included on Count 1, Count 2, and Count 3, which are
13 kidnapping counts, should be proved for purposes of sentencing
14 and should run concurrently because all of this arose out of a
15 single incident.

16 Now, one way or the main way, I guess, we disagree with the
17 Probation Office's conclusions as to what the sentence in this case
18 should be, and, also the government's arguments, is we believe
19 that the Court is empowered to impose a downward departure
20 not only as to Count 1, Second Degree Murder, but also to
21 Counts 2 and 3, which are felony murder with the underlying felony
22 being kidnapping. And we cite, Your Honor, Section 2A1.1 of
23 the guidelines, which is the murder guideline and the application
24 notes to it. The application note states that when there is a
25 premeditated intentional killing, then a life sentence would be

1 appropriate. However, where there is a felony murder conviction,
2 as was the case here on Counts 2 and 3, the Court is empowered
3 to impose a downward departure if there is a lack of design to
4 affect death. And we certainly think that's the case here as
5 reflected by the jury's verdict on Count 1.

6 The government indicates that Counts 2 and 3 call for a
7 mandatory term of life imprisonment and that is the minimum
8 mandatory sentence that could be imposed under the statute.
9 They cite this LeFleur case of the 9th Circuit, the Sands case out
10 of the 10th Circuit, and the Rodriguez case from the 1st Circuit
11 saying that a statutory punishment for what amounts to First
12 Degree Murder in Counts 2 and 3 overrides anything the
13 guidelines say. I wonder then why the guidelines or the advisory
14 notes or the application notes for the murder guidelines say what
15 they say? Because if the government's argument is correct, it
16 would appear to me that the comment regarding what the court
17 can do by way of a downward departure in a felony murder case
18 would be absolutely superfluous and meaningless and I don't
19 think the Sentencing Commission committed a meaningless act.
20 The government also indicates that the cross reference to the
21 application notes going to felony murder refer to certain species
22 or types of felony murder, but not kidnapping as being the
23 underlying felony. We would disagree with that because this,
24 after all, as to Counts 2 and 3 is a felony murder case.
25 We would also say to the Court that we believe a downward

1 departure or variance can be applied in this case because in
2 this particular case life imprisonment is not a mandatory
3 minimum sentence. It is a sentence. Mr. Murphy was not eligible
4 for the death penalty because the Muscogee Creek Nation never
5 entered into a compact with the U.S. government that would
6 permit the death penalty to be imposed for an Indian Country
7 murder on the Muscogee Creek Nation. So, in this instance, life
8 is not a mandatory minimum sentence, it is a sentence that we
9 believe the Court could depart downward from. The death
10 penalty was not available in this case, so you can't really say
11 that life is a mandatory minimum sentence under the statute.

12 I think that to an extent the Probation Office agrees with us
13 because they did not adopt the argument of the government that
14 there is just no way the Court could impose a downward variance
15 in this case. They recognize, I think, if I am reading it correctly,
16 that the Court can impose a sentence less than the level 43 they
17 found to apply based on the offense of conviction with the highest
18 punishment possibility, which they designate as Count 3,
19 kidnapping resulting in the death of George Jacobs.

20 So, Your Honor, just to summarize, and I will try to get
21 through this here within the next minute or so, we would ask
22 the Court to, number one, sentence Mr. Murphy to concurrent
23 terms of imprisonment, impose a downward departure or
24 variance with respect to Count 1 where the guideline range is
25 235 to 293 months for Second Degree Murder, and also depart

1 downward as to Counts 2 and 3. Again, this was not a case of
2 premeditated murder. The jury rejected a First Degree
3 Premeditated Murder verdict.

4 This is not strictly relevant, I guess, and an appellate court
5 is going to have to decide this, but the kidnapping case against
6 Mr. Murphy, in our opinion anyway, is exceedingly weak.
7 I believe the government argued that they were able to fulfill
8 meeting their burden of proof because there was a thing of
9 value obtained from the homicide, mainly that Mr. Murphy got
10 bragging rights, that he could go around and say, hey, look what
11 I did. That is not a thing of value in anybody's definition that I am
12 aware of and I haven't found any case that would indicate that.

13 Another mitigating circumstance, Your Honor, is that
14 Mr. Murphy spent two decades on death row at the Oklahoma
15 State Penitentiary on a conviction for which the State of
16 Oklahoma had absolutely no jurisdiction whatsoever to try him,
17 convict him and punish him. And I think he has certainly
18 suffered a lot of stress, strain, and things of that nature from
19 being on death row for two decades when he shouldn't have
20 ever been there to begin with. So he has already suffered a
21 tremendous punishment in that respect.

22 I don't think Mr. Murphy had a single disciplinary write-up
23 while he was on death row at the Oklahoma State Penitentiary.
24 He has no history of violence before this particular case. His
25 prior criminal history is minimal. He had a misdemeanor DUI

1 conviction in 1997, and there was a Driving Under Suspension
2 case that was dismissed, I think, after Mr. Murphy was arrested
3 for First Degree Murder by the state in this matter.

4 Mr. Murphy, as the state court decision reflected, is
5 intellectually challenged. He had a mental retardation trial in
6 state court while he was on death row. The jury found that he
7 was not mentally retarded. However, there was sufficient evidence
8 of intellectual deficits for that matter to be submitted to a jury.

9 So, Your Honor, we would ask the Court, to the extent it
10 believes it is empowered to do so, to depart downward on
11 whatever sentence it imposes. We believe the Court can do that
12 under the unique circumstances of this case with respect to both
13 Counts 2 and 3. And we would also ask the Court, of course, as
14 I've said I think a couple of times, to run the sentences for
15 Counts 1, 2, and 3 concurrently with credit for time served.
16 The credit for time served being that Mr. Murphy has been in
17 the custody of somebody, the state or the federal government,
18 since August the 29th, 1999. That is coming up on 23 years.
19 So we would ask the Court, in whatever sentence is imposed,
20 to give him credit for time served.

21 Thank you.

22 THE COURT: All right. Mr. Autry, thank you.

23 All right. Mr. Leaman, would you like to respond?

24 MR. LEAMAN: Your Honor, very, very briefly, the
25 United States' sentencing position is represented in its

1 Sentencing Memorandum.

2 The downward variance, downward departure request by
3 the Defendant is simply unsupported by the law. With respect,
4 Your Honor, the Court does not have the power to depart below
5 the mandatory life sentence in this case.

6 Having said that, Your Honor, I am happy to answer any
7 questions you have.

8 THE COURT: Okay. I think I am good.

9 MR. LEAMAN: Thank you, sir.

10 THE COURT: There appear to be two substantive
11 objections by the Defendant to the Final Presentence Report that
12 remain outstanding. For purposes of this hearing, the Court will
13 address the Defendant's objection to the information contained
14 in the offense conduct as Objection Number 1 and the
15 Defendant's objection to the guideline calculations as Objection
16 Number 2. Further, contained within defense counsel's
17 objections he cites various factors that he deems warrant a
18 downward variance or departure in this case. I will rule
19 separately on the Motion for Departure and/or Variance.

20 Counsel for the Defendant objects to certain statements
21 contained in the Offense Conduct Section of the Presentence
22 Report. Counsel concedes these statements were contained in
23 the discovery material and were presented during the trial in
24 this case; however, he wishes to preserve the objections for
25 future appeal purposes. I have, of course, heard the evidence

1 myself.

2 The Offense Conduct section of the report is a narrative of
3 the information garnered from the discovery materials provided
4 by the Government coupled with the evidence presented at trial.

5 The information contained in the Presentence Report is
6 supported by that information and as by the evidence heard by
7 the Court at trial. Therefore, the Court finds that the Offense
8 Conduct section is accurate. The Defendant's objection Number 1
9 is overruled.

10 Counsel for the Defendant also objects to the guideline
11 calculations contained in the Presentence Report. Counsel
12 reiterated his argument from his Rule 29 Motion that the
13 evidence was lacking to prove kidnapping. Further, counsel
14 states that the "guiding count for determining punishment" should
15 be Murder in the Second Degree, not Count 3 as reflected in the
16 Presentence Report.

17 The Defendant was found guilty of Kidnapping Resulting in
18 Death, in violation of 18 United States Code Section 1201(a)(2).
19 This statute specified that if the death of any person results, the
20 person shall be punished by death or life imprisonment. Further,
21 as detailed in the Final Presentence Report, the guideline for a
22 violation of 18 United States Code Section 1201(a)(2) is found
23 in Guideline Section 2A4.1. Pursuant to the cross reference at
24 Guideline Section 2A4.1(c)(1), if the victim was killed under
25 circumstances that would constitute murder under 18 United States

1 Code Section 1111, you apply Sentencing Guideline Section
2 2A1.1. In this case, the Defendant clearly killed the victim under
3 circumstances that would constitute murder under 18 United States
4 Code Section 1111. This cross reference does not require that
5 the murder be committed with an element of premeditation, simply
6 that the kidnaped victim was murdered. Therefore, the guideline
7 calculation contained in the Final Presentence Report is accurate
8 and the Defendant's objection is overruled.

9 Defense counsel has also filed a Motion for Downward
10 Departure and a Motion for Sentencing Variance requesting a
11 sentence within the sentencing range called for by an offense
12 level of 38, which is 235 to 293 months imprisonment. Counsel
13 requests a downward departure and variance pursuant to
14 various factors cited in Section 3553(a), including the nature
15 and circumstances of the offense and the history and characteristics
16 of the Defendant, the kinds of sentences available, and the need
17 to avoid unwarranted sentencing disparities.

18 With regard to the nature and circumstances of the offense
19 in this case, the Court finds that the guidelines take into account
20 the crime charged. The Court has also considered the
21 Defendant's personal history and characteristics, in addition to
22 the other factors cited in 18 United States Code Section 3553(a).

23 The Court has reviewed the Defendant's motions and has taken
24 into consideration the government's position in this matter. I've
25 also considered the statutory minimum sentence in this case.

1 In establishing an appropriate sentence for this Defendant,
2 I've considered the totality of the circumstances regarding the
3 offense of conviction and the Defendant's conduct during the
4 crime, in addition to the testimony heard at the trial in this case.
5 I recognize my authority to depart and/or vary from the
6 advisory sentencing range called for by the application of the
7 guidelines. Taking into consideration the Defendant's history
8 and characteristics, including his criminal history, childhood
9 experiences, as well as the offense conduct, the need for just
10 punishment, deterrence and protection of the public, the Court
11 cannot find that the circumstances in this case warrant a
12 departure or variance. Therefore, the Defendant's Motion for
13 Departure and Variance is denied.

14 All right. Mr. Leaman, I am going to give you an opportunity
15 to advance the government's arguments in aggravation or
16 mitigation of punishment, and also you can present your victim
17 evidence at that time.

18 MR. LEAMAN: Thank you, Your Honor.

19 THE COURT: The Presentence Report will form the
20 factual basis of the Court's sentence today.

21 You can continue.

22 MR. LEAMAN: Thank you, Your Honor.

23 Your Honor, the United States is asking for a life sentence
24 in this case, which is supported by the PSR, as well as the
25 statutory minimum sentences in this case.

1 Your Honor, at this time, with the Court's permission,

2 I would like to read two victim impact statements.

3 THE COURT: Yes.

4 MR. LEAMAN: Thank you, sir. Your Honor, this victim
5 impact statement is from Irene Jacobs.

6 "My name is Irene Jacobs. On August 28th, 1999, my brother,
7 George Jacobs, was beat, kicked and cut with a knife and left to
8 die on the side of the road in Vernon, Oklahoma.

9 Like any family, we celebrated family birthdays and holiday
10 celebrations with all the Jacobs' family members. Now George
11 has missed all these because his life was taken.

12 George was the family mechanic. He liked to tell jokes. One
13 time he told my niece Cary he was going to be famous, but I am
14 sure he didn't mean it by his life being taken.

15 When George was murdered everything seemed not real.
16 You read, hear about cases like this on TV, but not your family.
17 I still remember George's appearance from being beaten. That
18 does not ever go away. You just replace it in your mind with
19 better memories of George and know that he is okay now and
20 how he must have suffered from the brutal beating.

21 Life is not as carefree as it was, yet you still move forward.
22 I have come to court to show my support for George Jacobs, to
23 say he is important and had a right to be here alive today. And
24 the court proceedings have always been about justice for the
25 crime committed. It does not matter what the land was called,

1 state or Creek land. That being said, the request of the family of
2 George Jacobs is that Patrick Murphy be kept incarcerated and
3 be given the maximum sentence penalty for the crime he committed."

4 Your Honor, the second victim impact statement is from
5 Megan Nicole Jacobs.

6 "Hello. My name is Megan Nicole Jacobs. I am the daughter
7 of George Jacobs. I read a quote once that said, 'Some of us
8 matured early because life showed us the worst side of the world
9 at an early age.' I find this to be true. I had to grow up at a young
10 age. I also had to learn to deal with my emotions during this time
11 as well, being a nine-year-old girl whose father was brutally taken
12 from her by a heinous crime that was fueled by rage motivated by
13 jealousy. It is hard for me to get into that mind space to talk
14 about how my father, George Jacobs' death affected me, but let
15 me try.

16 I chose to live with my dad because Patrick used to beat my
17 mom. I could hear her screaming and crying from the next room
18 and I was never allowed to go into the room. His mom always
19 stopped me and told me to go outside. There were times when
20 my mother wasn't even let out of the room because he was so
21 controlling. There would be times when I wouldn't get to see my
22 dad because he would accuse my mom of wanting to be with
23 him.

24 The weekend my father, George Jacobs, was murdered is
25 something I will not forget. I went from spending time with my

1 mom and sister, going to the baby beauty pageant for my niece to
2 waking up from a dream of my dad dropping me off with my mom
3 and not telling me goodbye or I love you. I knew what this dream
4 meant, it meant that he was gone and not coming back. That night
5 when I woke up and got out of bed and walked down the hall to the
6 kitchen, I could hear my mom crying. When she seen me, she told
7 me to go back to bed. I told her I wanted to go home; I wanted my
8 dad. I looked from her red swollen eyes to his and the look in
9 Patrick's eyes that night made me want to run. I did not want to
10 be there anymore. All I wanted was to go home and to see and
11 to be with my dad. She walked me back to the door, put me back
12 in bed and shut the door behind her.

13 The next day when we came from Okmulgee heading back
14 to my sister's house, I remember seeing the trailer that we used
15 to stay in surrounded by police. I told my mom, 'Look at all of the
16 police. What is going on?' She was trying not to cry in front of
17 me at the time because I was still clueless about what happened.
18 I remember walking into the house, seeing everyone there, and
19 not knowing what was going on. So I went back outside where
20 my mom, sisters and my aunts were. They were all crying, so I
21 knew something wasn't right. My Aunt Nadine told me to walk
22 with her. She wanted to talk to me. She had her arms in mine
23 as we walked down the driveway. Once we got far enough away,
24 she turned me towards her, told me that my dad would not be
25 coming back anymore. I asked why and she told me, 'Because

1 he has been killed.' Once I heard that, I fainted. My vision went
2 black and my head fell back. I was out of it. My aunt had to grab
3 ahold of me so I wouldn't fall to the ground. Once I came back
4 around I was angry. All I wanted to do was ride my bike down to
5 the trailer to hurt Patrick myself. He took my dad away from me.
6 I was so angry at him and hurt that my heart was torn into pieces.
7 I wasn't sure what to do or what would happen because all I
8 wanted was to live with my dad still and have him with me like I
9 always did.

10 Having to deal with this trauma as a nine-year-old girl
11 messed my life up severely. I changed schools so many times.
12 I was almost hospitalized for not talking. I went through one
13 counselor after another. I got tired of telling people my story.
14 It only made me more sad and angry because I had to tell
15 someone new every time about everything and how I was
16 feeling. Eventually I was placed in CREOKS to help deal with
17 my depression. It helped for a little bit, but everything went
18 crashing down when I lost my Uncle Homer four months after
19 losing my dad. I started to feel like I was the problem. Every
20 time I get close to someone they die. Maybe if I had stayed
21 with my dad that night he would still be alive. I dealt with the guilt of
22 his death for so many years it only made me depressed worse.

23 We moved from Arizona for a fresh start – I am sorry. We
24 moved to Arizona for a fresh start, but even that was hard for
25 me. I had a hard time in school with making friends. I got

1 picked on for being light-skinned, told I wasn't a real Native
2 American, I needed to go back to where I came from. I fell
3 hard into depression. I did not want to be here anymore.
4 I just wanted to die so that I could be with my father George
5 Jacobs.

6 I received a birthday card once from Patrick. He wrote,
7 'Love always, Dad.' He had called at that time and wanted to
8 talk to me. I hung up the phone and got my mom. This is where
9 everything started to spiral out of control for me. I started
10 cutting my wrist. I was so numb I needed to feel the pain. It was
11 enjoyable. I knew I was still alive, even if my life seemed
12 meaningless at the time. Cutting helped me a lot. It was a
13 release for me when I couldn't get anything out, nobody to
14 talk to, and I felt like me and my mother were enemies at the
15 time. I hated her, I hated myself. My world was ugly. My mind
16 was unstable. I was having nightmares of Patrick coming to
17 kill us like he said he would. I had nightmares of him tracking us
18 down and killing my mom with me not being able to do anything
19 about it. I have had nightmares of going to court with him being
20 released from prison and causing me to live in fear and constantly
21 looking up the correctional facility to make sure he was still in
22 prison.

23 I started drinking and doing drugs at a young age. Heavy
24 metal music became my therapy. It keeps me calm, helps me
25 settle down my inner demons. Honestly I was out of control.

1 My mother had to move us back to Oklahoma once again. I was
2 upset and angry because I was being taken away from what
3 friends I had. I was failing school, barely passed into the eighth
4 grade. I wanted to be alone, away from everyone. I begged my
5 mother to send me to boarding school. I loved it, made a lot of
6 friends, went to a lot of places.

7 At sixteen I got pregnant with my first son. I was so happy to
8 have someone of my own, but also sad because my dad wasn't
9 there. After having my son, every day until now, I always think of
10 my dad. I will always wonder if he would spoil my kids rotten, if
11 he would be proud of me or disappointed in me.

12 I spent years digging my way out of depression and guilt.
13 I learned how to turn my emotions off. It scares me sometimes
14 how cold I can be, but this trauma did that to me. It has
15 conditioned me to be cold, to be on guard with feelings and
16 relationships. The trauma has shown me the signs of jealousy
17 that I won't deal with and the abuse I've also went through
18 because I thought that was okay in a relationship. I realize
19 that my mother and I have walked side-by-side this entire
20 journey and along the way I have wandered off the path and
21 went through some of the same emotional, physical, and mental
22 abuse that she has went through. The only difference is my
23 dad's murder has broken everyone, including me, but it is what
24 made me. I decided a long time ago that I won't let my fear of
25 Patrick rule my life anymore. I won't continue to look over my

1 shoulder anymore because if I keep doing that, it means he
2 won and I refuse to let him win.

3 My father, George Jacobs deserves justice for the criminal
4 heinous act that he had to endure. We, as a family, want the
5 full maximum sentence that Patrick deserves. I personally want
6 him to be sent to prison for the rest of his life since death is no
7 longer an option. I would like to live my life in peace knowing I
8 won't have to be worried about him being released ever again."

9 Your Honor, those are the two victim impact statements
10 in this case. I am happy to answer any questions the Court may
11 have about the United States' sentencing position.

12 THE COURT: I have no questions, Mr. Leaman, other
13 than if you have anything else that you want to add just
14 sue sponte.

15 MR. LEAMAN: No, sir.

16 THE COURT: I understand there is a Notice of Dismissal
17 of the original indictment; is that correct?

18 MR. LEAMAN: Yes, Your Honor.

19 THE COURT: All right. The Court will execute that at
20 this time.

21 Okay. Mr. Autry, you can approach with Mr. Murphy.

22 (COMPLIED)

23 THE COURT: All right. Mr. Autry, anything you would
24 like to say further on behalf of your client?

25 MR. AUTRY: No, Your Honor. We did point to

1 some mitigating circumstances in our objections to the
2 Presentence Report and our Sentencing Memorandum. We
3 would just re-urge those. I've already discussed them. And I
4 still think it is significant in this case that Mr. Murphy was
5 acquitted of the top chart, First Degree Premeditated Murder.
6 And from my standpoint anyway, I think it is still unclear, based
7 on the testimony the Court heard, what it was exactly that
8 Mr. Murphy did during this admittedly horrible and terrible
9 incident.

10 THE COURT: All right. Thank you, Mr. Autry.

11 Okay. Mr. Murphy, this is your opportunity to address the
12 Court before sentencing. Is there anything you would like to say,
13 sir?

14 THE DEFENDANT: No, Your Honor, I don't.

15 THE COURT: Thank you.

16 Patrick Dwayne Murphy, you appear before the Court today
17 for the purpose of sentencing, having previously been found guilty
18 of Count 1 – Murder in the Second Degree in Indian Country
19 in violation of 18 United States Code Sections 1111(b), 2, 1151, and
20 1153, Count 2 – Murder in Indian Country in Perpetration of
21 Kidnapping in violation of 18 United States Code Sections 111(a),
22 2, 1151, and 1153, and Count 3 – Kidnapping Resulting in Death
23 in violation of 18 United States Code Sections 1201(a)(2), 2,
24 1151, and 1153. In accordance with Title 18, Section 3353(a)
25 of the United States Criminal Code, it is the judgment of this

1 Court that you are hereby committed to the custody of the Bureau
2 of Prisons to be imprisoned on Counts 1, 2, and 3 for a term of life.
3 All counts shall run concurrently.

4 If ever released from confinement, you shall be placed on
5 supervised release for a term of 5 years on Counts 1, 2, and 3.

6 All Counts shall run concurrently. Within 72 hours following your
7 release from the custody of the Bureau of Prisons, you shall report
8 in person to the Probation Office in the District to which you are
9 released.

10 While on supervised release, you shall not commit another
11 federal, state, or local crime, shall not possess any illegal
12 controlled substance, shall not possess a firearm or destructive
13 device and shall also comply with the standard conditions as set
14 out in the Judgment, which are imposed because they establish
15 the basic expectations for your behavior while on supervision
16 and identify the minimum tools needed by probation officers to
17 keep informed about, report to the court about, and bring about
18 improvements in your conduct and condition. As a condition
19 of supervised release, you shall refrain from the unlawful use
20 of controlled substances and submit to one drug test within 15
21 days of your release. Subsequent to the first test, you shall
22 submit to at least two additional periodic drug tests thereafter
23 not to exceed eight drug tests per month. You shall submit to
24 DNA testing as directed by the United States Probation Office.
25 Based on the information provided in the Presentence Report

1 regarding the nature of the instant offense, you shall also comply
2 with the following special conditions of supervised release:

3 (1) You shall participate in a program approved by the United
4 States Probation Office for the treatment of narcotic addiction,
5 drug dependency, or alcohol dependency, which will include
6 testing to determine if you have reverted to the use of drugs
7 or alcohol and this may include outpatient treatment.

8 (2) You shall submit to a search conducted by a United
9 States Probation Officer of your person, residence, vehicle,
10 office and/or business at a reasonable time and in a
11 reasonable manner, based upon reasonable suspicion of
12 contraband or evidence of a violation of a condition of
13 release. Failure to submit to a search may be grounds for
14 revocation.

15 It is further ordered that you shall pay to the United States a
16 Special Assessment of \$100.00 on Counts 1, 2, and 3 for a
17 total of \$300.00. The assessment shall be paid through the
18 office of the United States Court Clerk for the Eastern District of
19 Oklahoma, and is due immediately.

20 Payment of a fine will not be imposed based upon your
21 current financial profile and the uncertainty of your projected
22 earning ability.

23 In formulating the sentence imposed, this Court has
24 considered the nature and circumstances of the offense as well
25 as the characteristics and criminal history of the Defendant. The

1 Court has further taken into consideration the sentencing
2 guideline calculations contained within the Presentence Report
3 in addition to any objections, clarifications, additions or deletions
4 to those guideline calculations identified in the addendum to the
5 report or announced in open Court today. While the Court recognizes
6 that it is not bound by the sentencing guideline calculations, the
7 Court has considered them and find them to be advisory in nature.

8 The sentence prescribed by this Court reflects the seriousness
9 of the offense, promotes respect for the law and provides just
10 punishment for the offense. This sentence affords adequate
11 deterrence to criminal conduct, protects the public from further
12 crimes of this Defendant and provides correctional treatment for
13 the Defendant in the most effective manner. The Court has
14 further determined that this sentence is reasonable and sufficient
15 but not greater than necessary to meet the requirements and
16 objectives set forth in 18 United States Code Section 3553(a).

17 The Court notes for the record that, based upon all presently
18 known legal and factual factors, this is the same sentence the
19 Court would impose if given the broadest possible discretion and
20 the same sentence the Court would impose notwithstanding any
21 judicial fact finding occurring by adoption of the Presentence
22 Report or at this hearing.

23 I recommend that the Bureau of Prisons evaluate and
24 determine if the Defendant should be given credit towards his
25 sentence for any time previously served in custody and further

1 award the Defendant credit for such time served in accordance with
2 Bureau of Prisons' policy.

3 Okay. Mr. Murphy, you have 14 days to appeal your
4 sentence. Mr. Autry will remain your attorney during that time.

5 Anything further from the government, Mr. Leaman?

6 MR. LEAMAN: No, Your Honor.

7 THE COURT: Mr. Autry?

8 MR. AUTRY: No, Your Honor.

9 THE COURT: Mr. Murphy?

10 THE DEFENDANT: No, nothing.

11 THE COURT: You are remanded to the custody of the
12 Marshal, sir.

13 (END OF PROCEEDINGS)

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CERTIFICATE

I, Karla McWhorter, Certified Shorthand Reporter and
3 Registered Professional Reporter, do hereby certify that the foregoing
4 is a true and accurate transcription of my stenographic notes and is a
5 true record of the proceedings held in the above captioned case.

I further certify that I am not employed by nor related to any party in this action, and that I am in no way interested in the outcome of this matter.

Certified on this 17th day of July 2022.

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/s/KARLA McWHORTER

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karla_mcwhorter@oked.uscourts.gov

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